

REMARKS

Claims 1, 9 and 12 are pending. Claims 1 and 9 are rejected under 35 U.S.C. §101. Claims 1, 9 and 12 are rejected under U.S.C. §102(e). Applicants address these rejections below.

I. REJECTIONS UNDER 35 U.S.C. §101:

The Office Action has rejected claim 1 under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. Office Action (5/29/2008), page 2. The Office Action suggested redrafting claim 1 to include a processor and a memory. As indicated above, claim 1 was amended to include a processor and a memory. Accordingly, Applicants respectfully request the Examiner to withdraw the rejection to claim 1 under 35 U.S.C. §101.

Further, the Office Action has rejected claim 9 under 35 U.S.C. §101 for allegedly being directed to non-statutory subject matter. Office Action (5/29/2008), page 3. In particular, the Office Action asserts that the steps of claim 9 can be performed mentally and therefore are not statutory. *Id.* As indicated above, Applicants amended claim 9 to specify that the method of claim 9 is a computer implemented method thereby clarifying that the steps of claim 9 are not performed mentally. Accordingly, Applicants respectfully request the Examiner to withdraw the rejection to claim 9 under 35 U.S.C. §101.

The amendments to claims 1 and 9 were made to expedite the issuance of claims 1 and 9. These amendments were not made to overcome the Examiner's cited art. Hence, no prosecution history estoppel arises from the amendments to claims 1 and 9. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-12 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2000). Further, the amendments made to claims 1 and 9 were not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such amendments. *See Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707 (2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

II. REJECTIONS UNDER 35 U.S.C. §102(e):

The Office Action has rejected claims 1, 9 and 12 under 35 U.S.C. §102(e) as being anticipated by Flaxer et al. (U.S. Patent Application Publication No. 2003/0033218) (hereinafter "Flaxer"). Applicants respectfully traverse these rejections for at least the reasons stated below and respectfully request the Examiner to reconsider and withdraw these rejections.

For a claim to be anticipated under 35 U.S.C. §102, each and every claim limitation must be found within the cited prior art reference and arranged as required by the claim. M.P.E.P. §2131.

The Office Action cites paragraphs [0008 and 0024-0027] of Flaxer as disclosing "providing for said catalog a non targeted product set available to targeted customers; wherein said non targeted product set is made available to public customers" as recited in claim 1 and similarly in claims 9 and 12. Office Action (5/29/2008), pages 4-5. The Office Action further cites the customized solution bundle, as disclosed in Flaxer, as disclosing both the targeted product set and the non-targeted product set. *Id.* at page 5. Applicants respectfully traverse the assertion that Flaxer discloses the above-cited claim limitations.

Flaxer discloses that both the entitled group and customizable solution bundle functions possess the concept of subset catalog and pricing along with business processes and tools to implement them. [0024]. Flaxer further discloses that in the entitled group support, the subset-catalog and prices apply only to the specific entitled group, and may not be applied to any excluded member. [0025]. Additionally, Flaxer discloses that customizable solution bundles span multiple groups and may be made available to any customer, at the discretion of the marketing organization. [0026]. In addition, Flaxer discloses that an established catalog and price process loads data from data sources 11 into the e-commerce application 12. [0041]. Flaxer further discloses that this is deemed to be the master catalog and contains no entitled or subset catalog definitions. [0041]. Furthermore, Flaxer discloses that the master catalog contains the entire universe of the vendor marketable items and is the base in which solution bundles may be defined. [0041].

Hence, Flaxer discloses a master catalog that contains the entire universe of the vendor marketable items and is the base from which customizable solution bundles are developed. Flaxer further discloses that in the entitled group support, the subset-catalog and prices apply only to the specific entitled group, and may not be applied to any excluded member. Further, Flaxer discloses that customizable solution bundles span multiple groups and may be made available to any customer, at the discretion of the marketing organization.

There is no language in Flaxer that discloses providing for the catalog a non targeted product set, where the non targeted product set is made available to public customers. The Office Action cited the customizable solution bundle as disclosing both the targeted product set and the non-targeted product set. However, these are two separate elements. The Office Action cannot cite to the same element in Flaxer as disclosing two separate claimed elements. Further, while the customizable solution bundle in Flaxer may be made available to any customer, that customer is still targeted. The customizable solution bundle is customized by a consumer to include a selection of individual marketable items into a bundle that best suits their need (See Abstract of Flaxer). In fact, Flaxer discloses that the bundle represents the potential set of products that the marketing organization determines is suitable for a class of customer based on the experience gained by the marketing teams for that industry. [0017]. Flaxer further discloses that the customer is allowed to select marketable items from this subset catalog in which to customize their solution. [0017]. Flaxer additionally discloses that solution bundles may be tailored to specific industries or other classifications of customers, and therefore, many solution bundles may be defined by a given vendor. [0017]. Clearly, the customizable solution bundle is targeted towards the customer or a specific industry or a class of customers. The customizable solution bundle is not a non targeted product set.

Thus, Flaxer does not disclose all of the limitations of claims 1, 9 and 12, and thus Flaxer does not anticipate claims 1, 9 and 12. M.P.E.P. §2131.

The Office Action further cites paragraphs [0008 and 0024-0027] of Flaxer as disclosing "wherein said catalog presents a view of products from non targeted

product sets to targeted customers" as recited in claim 1 and similarly in claims 9 and 12. Office Action (5/29/2008), page 5. Applicants respectfully traverse.

As stated above, Flaxer discloses a master catalog that contains the entire universe of the vendor marketable items and is the base from which customizable solution bundles are developed. Flaxer further discloses that in the entitled group support, the subset-catalog and prices apply only to the specific entitled group, and may not be applied to any excluded member. Further, Flaxer discloses that customizable solution bundles span multiple groups and may be made available to any customer, at the discretion of the marketing organization.

There is no language in Flaxer that discloses that the catalog presents a view of products from non targeted product sets to targeted customers. The Office Action focuses on customizable solution bundles in Flaxer as disclosing a catalog that presents a view of products from non targeted products sets to targeted customers. Applicants kindly request the Examiner to particularly point out in Flaxer where the non targeted product sets are disclosed in Flaxer pursuant to 37 C.F.R. §1.104(c)(2). As stated above, the customizable solution bundle is customized to be tailored to a specific customer, specific industries or other classifications of customers. The customizable solution bundle does not include non targeted product sets.

Thus, Flaxer does not disclose all of the limitations of claims 1, 9 and 12, and thus Flaxer does not anticipate claims 1, 9 and 12. M.P.E.P. §2131.

The Office Action additionally cites paragraphs [0008 and 0024-0027] of Flaxer as disclosing "wherein said catalog presents a view of products from non targeted product sets to public customers" recited in claim 1 and similarly in claims 9 and 12. Office Action (5/29/2008), page 5. Applicants respectfully traverse.

As stated above, Flaxer discloses a master catalog that contains the entire universe of the vendor marketable items and is the base from which customizable solution bundles are developed. Flaxer further discloses that in the entitled group support, the subset-catalog and prices apply only to the specific entitled group, and may not be applied to any excluded member. Further, Flaxer discloses that

customizable solution bundles span multiple groups and may be made available to any customer, at the discretion of the marketing organization.

There is no language in Flaxer that discloses that the catalog presents a view of products from non targeted product sets to public customers. The Office Action focuses on customizable solution bundles in Flaxer as disclosing a catalog that presents a view of products from non targeted products sets to public customers. As stated above, the customizable solution bundle is customized to be tailored to a specific customer, specific industries or other classifications of customers. The customizable solution bundle does not include non targeted product sets. Neither does the customizable solution bundle present a view of products to public customers.

Thus, Flaxer does not disclose all of the limitations of claims 1, 9 and 12, and thus Flaxer does not anticipate claims 1, 9 and 12. M.P.E.P. §2131.

Further, the Office Action cites paragraph [0024] of Flaxer as disclosing "wherein said master targeted product set is determined in accordance with terms and conditions of trading agreements between said vendor and said targeted customers" as recited in claim 1 and similarly in claims 9 and 12. Office Action (5/29/2008), page 6. Applicants respectfully traverse.

Flaxer instead discloses that the entitled group support includes the implementation of sanctioned business process and tools to meet the objectives of rapid definition/maintenance and the coordination of definitions between the front-end and backend fulfillment systems. [0024].

Hence, Flaxer discloses that the entitled group support includes the implementation of sanctioned business process and tools.

However, there is no language in the cited passage that discloses a master targeted product set. Instead, the cited passage is focusing on the entitled group support which is a subset-catalog (see paragraph [0025] of Flaxer). Neither is there any language in the cited passage that discloses a master targeted product set that is determined in accordance with terms and conditions of trading agreements between the vendor and the targeted customers.

Thus, Flaxer does not disclose all of the limitations of claims 1, 9 and 12, and thus Flaxer does not anticipate claims 1, 9 and 12. M.P.E.P. §2131.

Furthermore, the Office Action cites paragraph [0026] of Flaxer as disclosing "wherein each said targeted product set is determined in accordance with the terms and conditions of a trading agreement between said vendor and a respective targeted customer" as recited in claim 1 and similarly in claims 9 and 12. Office Action (5/29/2008), page 6. Applicants respectfully traverse.

Flaxer instead discloses that customizable solution bundles span multiple groups and may be made available to any customer, at the discretion of the marketing organization. [0026].

There is no language in the cited passage that discloses that each targeted product set is determined in accordance with the terms and conditions of a trading agreement between the vendor and a respective targeted customer.

Thus, Flaxer does not disclose all of the limitations of claims 1, 9 and 12, and thus Flaxer does not anticipate claims 1, 9 and 12. M.P.E.P. §2131.

As a result of the foregoing, Applicants respectfully assert that not each and every claim limitation was found within Flaxer, and thus claims 1, 9 and 12 are not anticipated by Flaxer. M.P.E.P. §2131.

III. CONCLUSION:

As a result of the foregoing, it is asserted by Applicants that claims 1, 9 and 12 in the Application are in condition for allowance, and Applicants respectfully request an allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

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